

REMARKS

In the Office Action, the Examiner has variously rejected claims for being anticipated by Culpepper et al. (USP 4,021,807) or, in the alternative, by Maloney et al. (USP 4,728,959). Also, the Examiner has rejected selected claims for being unpatentable over Culpepper et al. or Maloney et al. in view of Yokey et al. (USP 5,583,517). All pending claims have been rejected.

In response to the Office Action, Applicant has amended the independent claims 1, 19 and 24 to now specifically recite that the wireless system of the present invention includes a means for selectively setting the wavelength of the emitter signal. Further, the independent claims have been amended to require that this selected wavelength be related to a determinable feature size of the structure wherein the emitter is located. Support for these amendments is found in the specification on page 5 at lines 23-25 and on page 9 at lines 20-21.

Amendments to the claims have been made to improve the readability of the claims and to point out the features which distinguish this invention over the cited art. Claims 1-13, 15, 17 and 19-28 remain pending.

Rejections under 35 U.S.C. §102

Claims 1, 5-6, 15, 19, 21-22 and 24 have been rejected under 35 U.S.C. §102 for being anticipated by Culpepper. Also, claims 1, 5, 10-13, 15, 19 and 24-27 have been rejected under 35 U.S.C. §102 for being anticipated by Maloney.

As indicated above, independent claims 1, 19 and 24 for the present invention have been amended to distinguish the present invention from the cited art. An important consideration for this purpose is that the amended claims contemplate an operation using an emitter that is moveable inside a structure. Importantly, the structure is characterized by a determinable feature size, and the claims require that the wavelength of the transmitted emitter signal be dependent on this feature size. More specifically, the wavelength is selectively set to be longer than the feature size of the structure wherein the emitter is used. Neither Culpepper nor Maloney teach or suggest setting an emitter signal wavelength according to a measurement from the physical environment wherein the emitter is to be operated.

Unlike the present invention, the Culpepper reference discloses a system for tracking a transmitter that uses a predetermined radio frequency which is selected without using an external criterion (see col. 1 Ins 41-47). Somewhat differently, the Maloney reference discloses a system for locating a transmitter wherein the transmitter uses non-specific frequencies (see col. 4, Ins 33-35). In clear contrast with the cited references, all of the independent claims for the present invention specifically require that the emitter be set to broadcast a signal having a wavelength that satisfies a specific requirement. Namely, the wavelength must be longer than a feature size that is determined from the structure in which the emitter is located. The cited references simply do not teach or suggest such a system or method.

For the reasons set forth above, Applicant believes the bases for rejecting claims under 35 U.S.C. §102 have been overcome, and should be withdrawn.

Rejections under 35 U.S.C. § 103

Claims 2-3, 7-9, 11-13, 17, 20, and 25-28 have been rejected under 35 U.S.C. § 103(a) for being unpatentable over various considerations of Culpepper, Maloney, and Yokey.

The same reasons that are set forth above to distinguish claims for the present invention against anticipation, are also applicable here to distinguish them for being nonobvious. Specifically, Applicant believes that the limitations introduced into the amended independent claims for the present invention (i.e. claims 1, 19 and 24) patentably distinguish these claims from the Culpepper and Maloney references, regardless whether they are considered independently or collectively. In particular, Applicant contends that the Yokey reference does not add any teaching or suggestion that individually, or in combination with either Culpepper or Maloney, would make the present invention unpatentable (i.e. obvious). Specifically, like Culpepper and Maloney, Yokey does not teach or suggest setting an emitter to broadcast a signal at a selected wavelength (frequency) that is determined according to a feature size of the structure in which the emitter is located.

In view of the argument presented here, Applicant believes the bases for rejecting claims under 35 U.S.C. §103 have been overcome, and should be withdrawn.

All of the dependent claims incorporate the limitations set forth in their respective base claim and, thus, for the same reasons are patentable.

In conclusion, Applicant respectfully asserts that claims 1-13, 15, 17, and 19-28 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 619-688-1300 for any reason that would advance the instant application to issue.

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Respectfully submitted,



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